

Decision 06-02-024 February 16, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of: Imperial Valley Transportation Services, LLC, a California limited liability company, for a Certificate of Public Convenience and Necessity to Operate as a Passenger Stage Service within a zone of rate freedom over the most direct routes from points in the County of Imperial, on the one hand, and points in the County of San Diego, on the other hand, and between and among cities within Imperial County and San Diego County.

Application 05-09-015
(Filed September 13, 2005)

O P I N I O N

Summary

This decision grants the application of Imperial Valley Transportation Services, LLC, a limited liability company, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

Discussion

The application, as amended by letter dated December 15, 2005, requests authority to operate as a scheduled PSC to transport passengers and their baggage between points in Imperial County, on the one hand, and San Diego, on the other hand. Surveys taken by Applicant in Imperial County indicate there is an increasing demand for scheduled passenger transportation to the San Diego area. Those in need of services include (1) daily commuters, i.e., homeowners in

Imperial County who are employed by businesses located in the San Diego area; (2) passengers seeking transportation to and from San Diego International Airport; (3) persons living in Imperial County seeking treatment at San Diego area medical groups and hospitals; and (4) tourists such as bird watchers, desert explorers, etc. who desire transportation between Imperial County and San Diego.

Applicant believes its proposed service will fill a public need by offering people a convenient and affordable alternative to private automobile transportation. Additionally, by reducing the number of private passenger vehicles on the road, the environment will benefit through improved air quality and reduced traffic congestion. Applicant plans to establish a van/bus terminal and maintenance facility in the El Centro area. Initially it will operate three 10-passenger vans and serve the Imperial County points of Calexico, El Centro, Imperial, Brawley, and Seely. Larger vehicles will be added once the business matures and grows.

Applicant maintains that it has the financial ability to render the proposed service. Attached to the application as Exhibit E is Applicant's unaudited balance sheet as of August 15, 2005, that discloses assets of \$212,000, liabilities of \$112,000, and net worth of \$100,000. Applicant explains that it is owned 50% by Delta International, LLC, which for many years has been involved in such business activities as transporting goods throughout the United States and Mexico and engaging in international transactions for the dairy and plastic industries in Mexico. Applicant believes that Delta's diverse and successful business track record demonstrates that Applicant will possess the business acumen and experience necessary to run a successful PSC operation. Additionally, Applicant is prepared to draw upon any and all resources in the passenger transportation industry for assistance, if necessary.

The proposed fares are \$45 one way and \$75 round trip. Applicant requests authority to establish a ZORF of 15% above and below these fares. It advises that the flexibility provided by a ZORF will be of great benefit, particularly in responding to the ongoing volatility in the fuel market. Applicant will compete with Greyhound Lines and private automobiles (including vanpools and carpools), and to a lesser extent taxicabs, charter vehicles, and on-call PSCs, in its service area. Many other PSCs have been granted ZORFs. While Applicant's market may not be as competitive as the markets of other PSCs, the requested ZORF is modest compared to most other ZORFs. The availability of some other transportation options should result in Applicant pricing its services at a reasonable level.

Notice of filing of the application appeared in the Commission's Daily Calendar on September 16, 2005. Applicant served a notice of the application to the affected cities, counties, and transit districts.

In Resolution ALJ 176-3159 dated September 22, 2005, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3159.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The application requests authority to operate as a scheduled PSC to transport passengers and their baggage between points in Imperial County, on the one hand, and points in the City of San Diego, on the other hand.
2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF of 15% above and below the proposed fares, as shown in the application
4. Applicant will compete with PSCs and other modes of transportation. The ZORF is fair and reasonable.
5. No protest to the application has been filed.
6. A public hearing is not necessary.
7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.
2. The request for a ZORF should be granted.
3. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.
5. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Imperial Valley Transportation Services, LLC (Applicant), a limited liability company, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-19436, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of 15% above and below the proposed fares shown in the application.

4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

5. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.

8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-19436, granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated February 16, 2006, at San Francisco, California.

MICHAEL R. PEEVEY

President

GEOFFREY F. BROWN

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

Commissioners

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-19436

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

I N D E X

	Page
SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS	2
SECTION II. SERVICE AREA	3
SECTION III. ROUTE DESCRIPTION	3

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Imperial Valley Transportation Services, LLC, a limited liability company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on a scheduled basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. Service will be operated only at the points described in Section II and over the routes described in Section III. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- C. No passengers shall be transported between points described in Section IIA or between points described in Section IIB.
- D. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. SERVICE AREA.

- A. Points in Imperial County.
- B. Points in the City of San Diego.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point described in Section IIA, then over the most convenient streets and highways to any point described in Section IIB.